

**COMMUNITY AFFAIRS
DIVISION OF CODES AND STANDARDS
DIVISION OF FIRE SAFETY**

Uniform Construction Code

Uniform Fire Code

Carbon Monoxide Detectors; Certificates

Adopted Amendments: N.J.A.C. 5:23-3.20, 6.4, 6.5, 6.6, 6.7, 6.21A, 6.25A, 6.26A, 6.27, 6.31; 5:70-1.5, 2.1, 2.3, 2.9 and 4.19

Proposed: December 16, 2002 at 34 N.J.R. 4277(a)

Adopted: April 7, 2003 by Susan Bass Levin, Commissioner, Department of Community Affairs.

Filed: March 6, 2003 as R. 2003, d. 137, **with a technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:27D-124 and -133.3; P.L. 1999, c.15, section 5.

Effective Date: April 7, 2003.

Expiration Dates: January 15, 2008 (5:23); December 22, 2004 (5:70)

SUSAN BASS LEVIN, Commissioner

Summary of public comments and agency responses: Comments were received from the following persons: David E. Herbert, CPM, Fire Marshal, East Brunswick Fire District #1, Robert Corby, CBO, Washington Township (Mercer County) Construction Office; Michael S. Scardino, Fire Marshal, Township of Winslow; Bill Lample; and Robert J. Davidson, Fire Marshal, South Brunswick Township.

COMMENT: Proposed changes to the Uniform Fire Code are inconsistent with the Uniform Construction Code and with other sections of the Uniform Fire Code with regard to Use Group classification of one- and two-family homes.

RESPONSE: Reference to Use Group R-4 is being added to N.J.A.C. 5:70-4.19(d), thus eliminating the apparent inconsistency in the location where it appears.

COMMENT: N.J.A.C. 5:70-2.3 should be amended to include buildings in Use Group R-2 (multiple dwellings) as subject to inspection on change of occupancy. There are no requirements for maintenance inspections of such buildings.

RESPONSE: Multiple dwellings are already subject to inspection for carbon monoxide detector compliance by the Bureau of Housing Inspection under the Hotel and Multiple Dwelling Law, as amended by section 2 of P.L. 1999, c.15. Section 1 of P.L. 1999, c.15 limits carbon monoxide detector inspections upon change of occupancy to one- and two-family dwellings.

COMMENT: The proposal should include a fee increase, including graduated fees when inspections are required on short notice.

RESPONSE: The Department agrees that higher smoke and carbon monoxide detector inspection fees, with added fees for short notice inspections, are justified. However, they were not included in this proposal and cannot be added on adoption.

COMMENT: This proposal does not include provision for an affidavit in lieu of inspection, which is permitted in the case of smoke detectors. Such a provision is not desirable and should be deleted for smoke detectors.

RESPONSE: The existing provision allowing use of an affidavit in lieu of inspection is not being deleted and applies to the combined inspection for smoke and carbon monoxide detectors. In any event, removal of this provision was not proposed, so it cannot be done on adoption.

COMMENT: There have been cases where a seller had a smoke detector inspection performed, got the certificate and then took the detectors with him when he moved.

RESPONSE: N.J.S.A. 52:27D-198.3 requires, not only that the seller or lessor of a one- or two-family house have the property inspected and obtain the appropriate certificate, but also that he not sell or lease the property if it does not comply with the requirements concerning the existence and placement of one or more alarms. Thus, a seller or lessor who got a certificate and then took the detectors with him would be subject to the same penalty as if he did not obtain the certificate.

COMMENT: The rules should make the listing real estate agent responsible for compliance with the detector requirements.

RESPONSE: By statute, it is the owner who is responsible for compliance. The Department does not have authority to impose such responsibility upon real estate agents.

COMMENT: It is not possible to test AC-powered systems in foreclosed properties in which electrical power has been turned off. How can a local enforcing agency issue a certificate for such properties?

RESPONSE: The purchaser of any such property will require a permit under the Uniform Construction Code in order to have the utilities reconnected. No certificate of smoke and carbon monoxide detector compliance can be issued until a certificate of occupancy has been issued following the inspection of the reconnected utilities. Any work done under the Rehabilitation Subcode of the Uniform Construction Code will trigger the requirement for detectors.

COMMENT: The installation of smoke and carbon monoxide detectors will save many lives.

RESPONSE: The Department agrees and thanks the commenter for this expression of support.

COMMENT: The proposal should be rewritten to eliminate potential confusion and overlapping authority among the local fire code enforcing agency, the local construction code enforcing agency and the Department's Bureau of Housing Inspection and Bureau of Rooming and Boarding House Standards. The language proposed at N.J.A.C. 5:23-6.4(g), which requires installation in accordance with the mechanical subcode of the Uniform Construction Code, should apply in all cases.

RESPONSE: The construction code enforcing agency has jurisdiction when construction or alteration work is done and one or more carbon monoxide detectors are required as a condition of issuance of a certificate of occupancy or condition of approval. The Bureau of Housing Inspection and the Bureau of Rooming and Boarding House Standards have jurisdiction over buildings that they inspect and in which the requirement that carbon monoxide detectors be provided is one of many rules that they enforce. Local fire code enforcing agencies currently inspect existing one- and two-family dwellings upon change of occupancy for smoke detectors, and will now inspect for carbon monoxide detectors at the same time. The jurisdictional lines are clear and the cross-references to the Uniform Construction Code in the other rules should not, in the Department's judgment, be a source of confusion.

COMMENT: All carbon monoxide detectors should be required to have battery backup, since many cases of carbon monoxide poisoning occur when electric power to a unit is shut off and the occupants use unvented alternative heating sources that are hazardous.

RESPONSE: P.L. 1999,c. 15, the statute that these rules are designed to implement, provides that the rules "shall substantially comport with National Fire Protection Association (NFPA) 720, Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment." Since NFPA 720 allows CO detectors to be battery-powered, AC hard-wired or plug-in, the rules can neither preclude nor require use of any one of these power sources.

COMMENT: The New Jersey Association of Realtors believes that, by requiring installation of carbon monoxide detectors, the Department is working in the best interest of the residents of New Jersey. However, the NJAR is concerned about the absence of reference to R-4 structures in the proposed N.J.A.C. 5:70-4.19(d). The NJAR also recommends that there be a three-month period allowed prior to the operative date for this rule, in order to allow inclusion of language in standard form contracts that would alert buyers and sellers to this requirement.

RESPONSE: The Department appreciates the NJAR's expression of support. As has been indicated, reference to Use Group R-4, which was inadvertently omitted

from the proposed N.J.A.C.5:70-4.19(d), is being included on adoption. The intention to include reference to Use Group R-4 in that subsection is clear from the cross-reference in N.J.A.C. 5:70-2.3(a). As to extensions of time for compliance, the Department believes that this issue has received considerably more public attention than is the case with most rule proposals, that addenda to existing contract forms can easily be prepared and be made available, and that it is therefore not necessary to delay the operative date.

COMMENT: Many buildings are constructed with their heaters in small additions or exterior closets that are separated from the building interior by structural sheathing and sheetrock as an enclosed assembly. They have fresh air intakes large enough to facilitate proper combustion. The ductwork system is usually constructed so as to prevent drawing by-products of combustion through the duct system. This type of configuration should be exempt.

RESPONSE: Attached garages are typically separated by the building interior in the same manner as the additions or exterior closets that the commenter describes. However, carbon monoxide detectors are required when there is an attached garage because of the possibility of carbon monoxide seeping into the habitable area. The same rationale would apply in this case as well.

Federal Standards Statement

No Federal standards analysis is required because these rules are not being proposed under the authority of, or in order to implement, comply with, or participate in any program established under, Federal law or a State statute that refers to Federal law, standards or requirements.

Full text of the adopted amendments follows (additions indicated in boldface with asterisks ***thus***; deletions indicated in brackets with asterisks *[thus]*).

5:70-4.19 Smoke detectors for one and two-family dwellings; carbon monoxide detectors

(a)-(c) (No change.)

(d) Carbon monoxide alarms shall be installed in all dwelling units in buildings in Use Groups I-1, R-1, R-2, R-3, ***and R-4***, except for units in buildings that do not contain a fuel-burning device or have an attached garage, as follows:

1.- 4. (No change.)